

1 COOLEY LLP
2 KATHLEEN R. HARTNETT (314267)
3 (khartnett@cooley.com)
4 SHARON SONG (313535)
5 (ssong@cooley.com)
6 101 California Street, 5th Floor
7 San Francisco, California 94111-5800
8 Telephone: +1 415 693 2000
9 Facsimile: +1 415 693 2222

6 Attorneys for Defendant
Molina Healthcare, Inc.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 WESTON REED,

13 Plaintiff,

14 v.

15 MOLINA HEALTHCARE, INC. and CR
16 INSURANCE GROUP, LLC,

17 Defendants.
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Case No. 3:21-cv-01851-JD

**[PROPOSED] ORDER GRANTING
DEFENDANT MOLINA
HEALTHCARE, INC.'S MOTION TO
DISMISS THE COMPLAINT AND
STRIKE CLASS ALLEGATIONS**

Date: July 8, 2021
Time: 10:00 a.m.
Dept: Courtroom 11, 19th floor
Judge: Hon. James Donato

Complaint Filed: March 16, 2021

1 Defendant Molina Healthcare, Inc.'s ("Molina") Motion to Dismiss the Complaint and
 2 Strike Class Allegations (the "Motion") came on for hearing before this Court on July 8, 2021 at
 3 10:00 a.m. After consideration of the briefs and arguments of counsel, and all other matters
 4 properly presented to the Court, including any evidence thereon as permitted by the relevant
 5 authority, the Court orders as follows:

6 Plaintiff Weston Reed's ("Plaintiff") Class Action Complaint (Dkt. No. 1 (the
 7 "Complaint")) is dismissed in its entirety under Federal Rule of Civil Procedure 12(b)(6) for failure
 8 to state a claim upon which relief may be granted. Plaintiff fails to allege the required elements of
 9 his claims brought under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*
 10 ("TCPA"). Plaintiff fails to adequately allege that Molina, or an agent acting on its behalf, called
 11 his cellular telephone. Plaintiff also fails to sufficiently allege that an artificial or prerecorded voice
 12 or an automatic telephone dialing system was used to call him. Plaintiff's first cause of action fails
 13 for the additional reason that Plaintiff provides no factual basis to allege Molina's knowing or
 14 willful violation of the TCPA.

15 The class allegations are further stricken from the Complaint under Federal Rule of Civil
 16 Procedure 12(f). Plaintiff's Autodialer and Robocall proposed classes include individuals who
 17 have no standing. Plaintiff's NDNC proposed class is unsupported by a private right of action
 18 under Section 227(b) of the TCPA, pursuant to which Plaintiff brings his claims.

19 Accordingly, Molina's Motion to Dismiss the Complaint is **GRANTED**, and Plaintiff's
 20 Complaint is **DISMISSED** in its entirety, with prejudice. Molina's Motion to Strike the Class
 21 Allegations is **GRANTED**, and the class allegations are **STRICKEN** from the Complaint.

22 **IT IS SO ORDERED.**

23
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 25 Dated: _____

By: _____
 The Honorable James Donato
 United States District Judge